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South Carolina House of Representatives



# Legislative Update

David H. Wilkins, Speaker of the House

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## WEEK IN REVIEW

### HOUSE

House floor activity was dominated by the discussion, amendment, and ultimate approval of H.4399, the "South Carolina Performance and Accountability Standards for Schools (PASS) Act" which is intended to create a system of accountability for the state's kindergarten through twelfth grade public education system by equipping students with a strong academic foundation and providing a clear means of measuring the progress of individual students, schools and school districts. To provide oversight, the bill creates the Performance and Accountability Standards for Schools Commission (the Commission), composed of fifteen voting members who serve four-year terms: two at-large appointments by the Governor; two Senators appointed by the Senate President *Pro Tempore*; two House members appointed by the Speaker; four non-legislative business and industry members appointed one each by the Governor, President *Pro Tempore* of the Senate, House Speaker, and State Superintendent of Education; four non-legislative public education members appointed one each by the Governor, President *Pro Tempore* of the Senate, Speaker of the House, and State Superintendent of Education; one member representing the Council of Presidents/Independent Colleges and Universities appointed by their chairman. The Commission also includes 3 *ex officio* non-voting members, including the State Superintendent of Education, the Chair of the State Board of Education (the Board) or designee, and the Chair of the Commission on Higher Education or designee. The bill creates the Office of Research and Development to operate within the Commission. This office is responsible for planning, monitoring, reviewing, and evaluating all aspects of the PASS Act and the Education Improvement Act, and the Commission will employ an executive director of the office who will hire staff as necessary to carry out the duties of the office.

The bill directs the Board to adopt specific performance-oriented education standards for math, English/language arts, science, and social studies for kindergarten through twelfth grade, and requires a cyclical review of these standards, by academic area, to ensure that they are maintaining high expectations for learning and teaching.

The bill directs the Board to develop, select, or adapt a statewide assessment program for grades two through eight; end of course tests for gateway courses in English/language arts, mathematics, science, and social studies for grades nine through twelve; and an exit exam which is linked to the adopted standards. Also the Board is directed to develop, select, or adapt a first and second grade readiness test which is linked to the adopted standards.

The bill requires the State Department of Education (the Department) to provide data - examining student performance by considering their test scores over time, and broken out for specific groups within the total student population - from these assessments to the schools and districts of the State. The schools and districts are responsible to disseminate this information to parents in a format that will clearly indicate both the school's and the individual student's performance. The bill requires a review of the assessment after the field test. Other



assessment-related requirements and considerations in the bill include: required "norm-referenced" assessment (designed to compare student performance to a nationally representative sample of similar students known as the norm group) to give an accurate portrayal of student achievement in relation to other states; a requirement that high schools offer state-funded PSAT or PLAN tests to each 10th grade student to provide guidance and direction for parents and students as they plan for postsecondary experiences; a requirement that promotion to the next grade in grades two through eight be tied to meeting the composite standard established by the Board, with districts allowed to develop options for retention.

The bill directs that the Commission, working with the Board, establish an annual report card and its format for elementary, middle, and high schools, and for school districts, and directs what must be included in the report card and how and when the report card must be distributed. Such report cards would assign schools letter grades (A, B, C, D or F) to indicate the school's absolute score in meeting student achievement benchmarks as well as the progress the school has made towards meeting benchmarks since the last grading period.

The bill also establishes a program for recognizing and rewarding schools with high levels of absolute and improved performance. Assistance for poorly performing schools is provided in the bill with different requirements delineated for schools rated "D" and for schools rated "F." Assistance to these schools includes the creation of a pool of qualified teachers and principals who will be paid an incentive wage for three year contracts placing them in low-performing schools.

The bill requires that the Commission provide for a comprehensive review of professional development to include principal leadership development and teacher staff development. The bill also requires that a subcommittee of the Commission explore alternatives for the development of an on-going public relations/public awareness campaign and issue a report to the Commission of the plan by July 1, 1999.

Chapter 6 of Title 59 of the *SC Code of Laws*, which concerns monitoring implementation of education improvement, is repealed by this bill.

The House amended the bill so as to establish a separate fund, within the state general fund, to be used to provide financial support for poorly performing schools. The fund may consist of grants, gifts, public or private donations, in addition to appropriations from the General Assembly. Monies from the fund are to be invested by the State Treasurer. The State Board of Education, in consultation with the Commission, shall administer and authorize any disbursements from the fund.

The House amended the bill so as to allow a student who attends a school which receives an "F" for its absolute grade to transfer to any other school in the district. If a district does not contain any schools receiving better than an "F" for an absolute grade, a student may transfer to a school in an adjoining district, if space is available. A student may remain at the school to which he has transferred until finishing the highest grade level offered at the school. Applicable state and federal funding per student shall follow the transfer student to the adjoining district.

H.4399 was amended so as to authorize the PASS Commission to monitor and review the funding of Education Improvement Act programs.

The House also amended the bill so as to provide that if a school district has adopted a policy permitting corporal punishment in certain situations, the school district and any of its employees is immune from any civil or criminal liability as a result of a student being administered corporal punishment in conformity with the district's policy, absent gross negligence or recklessness.

H.4399, as amended, was read for the third time and sent to the Senate.

The House read for the third time and sent to the Senate H.4469 which revises the apprenticeship programs preceding licensure as a port pilot. For apprentices working towards licensure as a pilot at ports other than Charleston, the required twenty-foot branch and twenty-five foot branch are replaced by an initial short branch license and a second branch license, respectively. The commissioners of pilotage for the ports of Georgetown and Port Royal jointly shall establish in regulation the tonnage and draft restrictions for each short branch license. Similarly, the apprenticeship program towards full licensure as a pilot at the port of Charleston is revised such that an apprentice must obtain in succession an initial short branch license, then a first, second, third, and fourth branch license before full licensure. The commissioners of pilotage for the port of Charleston shall establish in regulation the tonnage and draft restrictions for each short branch license. The bill allows the Commissioners of Pilotage to revise licensing requirements by regulation and keep pace with the increases in ship size and weight which have been forcing the General Assembly to periodically revisit the licensing requirements.

The House gave third reading to Joint Resolution S.923 which provides for concurrent state and federal jurisdiction over the National Advocacy Center, a prosecuting attorney training center in Columbia which is leased by the United States of America. The State of South Carolina would reserve concurrent jurisdiction to enforce the criminal and civil laws of this State within the Center, and would reserve the right to serve criminal or civil process within the facility in prosecutions or suits for or on account of crimes committed, rights acquired, or obligations incurred in the State of South Carolina.

The House amended and approved H.3330 which rewrites the laws governing the licensing and regulation of geologists to conform to the uniform organizational and administrative framework for professional and occupational boards. The bill sets forth the powers and duties of the State Board of Registration for Geologists and includes the requirements to be registered as a professional geologist. As amended, the bill authorizes the State Board of Registration for Geologists to promulgate regulations to establish a code of ethics for licensed geologists. As amended, the bill also reduces the penalty for practicing without a license and knowingly submitting false information. The bill as introduced proposes fines of up to \$50,000 and imprisonment for up to one year. The amendment adopted by the House establishes fines from \$100 to \$500 or imprisonment for not more than three months.

The House amended and gave final reading to H.4358. As amended, the bill allows a licensed practical nurse (LPN) to practice without the on-site supervision of a registered nurse (RN),



physician, or dentist under the following circumstances: (1) in home or residential settings under the Medicaid program, or any other home or residential setting, if a registered nurse has approved the plan of care; (2) in public schools and the Department of Juvenile Justice and Department of Corrections institutions and facilities if the licensed practical nurse follows the employer's policies, procedures, and guidelines, and if a registered nurse is available to be called for consultation.

The House amended and sent to the Senate, Concurrent Resolution H.4295 which requests the South Carolina Area Health Consortium (AHEC) to examine the problem of recruitment and retention of nurses aids in nursing homes and report its findings to the General Assembly by January 1, 1999.

The House recommitted to the Medical, Military, Public and Municipal Affairs Committee H.3248 which requires a hospital, nursing home, or other facility licensed by the Department of Health and Environmental Control to include and maintain as part of a patient's medical record any incidence or occurrence report that the hospital, nursing home, or facility makes that involves or in any way is related to the diagnosis, care, or treatment of a patient.

## SENATE

On Tuesday, the Senate adopted a Sense of the Senate motion that Ron Cobb, informant for the FBI during Operation Lost Trust, be called as a witness by the special subcommittee investigating the matter before the investigation is complete. On Wednesday, the Senate gave third reading and sent the House of Representatives the following bills: S.332, which prohibits the destruction of a weapon until the results of any legal proceeding in which it may be involved are finally determined; S.772, which allows a magistrate to compel the attendance of any witness residing in the county; S.779, which deletes the requirement that a person charged with a violation of a municipal ordinance be tried within seven days; S.864, which provides that the Public Service Commission will elect a vice-chairman instead of a secretary; and S.866, which increases the penalty for carjacking and provides that carjacking is listed in the code as a violent crime and a most serious offense.

On Thursday, the Senate gave third reading to H.3590. This bill, which prohibits the use of artificial lights from any vehicle or water conveyance for the purpose of observing or harassing wildlife, was amended in the Senate. The bill states that an owner of real property or a person with a legal interest in real property may use artificial lights from any vehicle or water conveyance for the purpose of surveying or protecting the property. Furthermore, a person or group engaged in research or documentary filming may observe wildlife with the use of artificial lights when done with written permission of the landowner and/or leaseholder of the property. A person also may use artificial lights to survey or protect the property.

The Senate also gave third reading and sent to the House the following bills: S.388, which established limits on black bass taken from Lake Marion and Moultrie and in certain portions of

the Santee River; and S.835, which repeals a code section which requires a person involved in a hunting accident to make a report of the accident to the Department of Natural Resources.

## HOUSE COMMITTEE ACTION

### AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

The Committee on Agriculture, Natural Resources and Environmental Affairs met Tuesday, January 27 and gave a favorable vote to H.3330 with proposed amendments. The full House amended and approved H.3330 this week (see House Week in Review).

### EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee did not meet this week.

### JUDICIARY

The Judiciary Committee amended and gave a favorable recommendation to S.220, which provides that a person is guilty of a nuisance for using a building or other place for the purposes of lewdness, assignation, prostitution, repeated acts of unlawful possession or sale of controlled substances, or continuous breach of the peace. Two proposed Constitutional amendments also received favorable recommendations: H.4303, which deletes the language in the South Carolina Constitution prohibiting marriage between Caucasian and African-American persons, and H.4401, which provides the General Assembly with the ability to specifically exclude by law particular misdemeanors or felonies from the notification provisions in the Crime Victim's Bill of Rights. S.923, granting concurrent federal and state jurisdiction over the National Advocacy Center, and H.4412, which provides that a person charged with a magistrate's court or municipal court offense may waive his appearance before the court and post a bond in an amount previously approved by the court, were also given a favorable recommendation by the committee.

### LABOR, COMMERCE AND INDUSTRY

The House Labor, Commerce and Industry Committee reported favorably on three bills. The Committee gave a favorable report to S.380, which provides the Director of the Department of Insurance an alternative remedy by which he may halt the unauthorized transaction of insurance business. Presently, the director may file a complaint in the Richland County Court of Common Pleas seeking a restraining order and an injunction. As an alternative, S.380 allows the Insurance Department Director to issue an emergency cease and desist order against anyone he reasonably believes has engaged in, or is about to engage in, an unauthorized transaction of insurance business. Such emergency orders may be contested in a public hearing before an administrative law judge, who may make an emergency cease and desist



order permanent. The administrative law judge may stay the enforcement of the emergency order, but a stay may be accompanied by a requirement that bond be posted. If no request for a public hearing is received within ten days of the receipt of the emergency cease and desist order, then, upon application of the Director and without a public hearing, the administrative law judge must make the emergency order a permanent cease and desist order. Following a public hearing, an administrative law judge may impose a penalty of up to fifty thousand dollars per violation, if he determines that the person engaged in the unauthorized transaction of insurance business knew, or should have known, his actions violated the law. A penalty of up to twenty-five thousand dollars per violation may be imposed by a circuit court on anyone transacting business in violation of a permanent cease and desist order. The bill also provides that one who wilfully conducts an unauthorized transaction of insurance business is guilty of a felony rather than a misdemeanor.

This Committee gave a favorable report to S.204 which raises from twenty to thirty the number of days within which an insurance broker must file a written request with the Department of Insurance for approval of placing insurance with a surplus lines insurer. Under the bill, the broker must still file the request for approval by the effective date of the policy, if the effective date falls before the thirty-day period has elapsed. Surplus lines insurance encompasses certain group and self-insured's life, accident, and health insurance coverage which a licensed insurance broker places with an insurer not licensed to do business in the state.

The Committee also gave a favorable report to H.4469 which received third reading from the full House and was sent to the Senate (see House Week in Review this issue).

#### **MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

The Committee on Medical, Military, Public and Municipal Affairs met on Tuesday, January 27, and gave H.4295 a favorable vote with proposed amendments. The full House approved the H.4295 this week (see House Week in Review).

The Committee also gave a favorable recommendation to H. 4063. This bill clarifies and updates the laws governing the South Carolina Mental Health Commission and community mental health centers. The bill includes a provision stating that any person who cannot afford to pay for necessary treatment at the rate customarily charged in available private practice is eligible to receive services from the community mental health clinic.

H.3617 was given a report of favorable with amendments. This bill makes it a felony to clone or conspire to clone a human being by any method. Violators are subject to fines of up to \$5000 or imprisonment for up to five years or both. Amendments are proposed to H.3617 to (1) delete the requirement for DHEC to promulgate regulations and take all other necessary actions to carry out this proposal and (2) to specifically prohibit the use of state funds to clone a human being.

The Committee gave a report of favorable with amendments to H.4358 which the house amended and approved this week (see House Week in Review).

## WAYS AND MEANS

The Ways and Means Committee gave a favorable report with amendments to the *Legislative Incentives for Future Excellence (LIFE) Scholarship* bill. The Committee reported the bill out as a committee-sponsored bill, H.4535. The committee bill provides \$2,000 per year for full-time attendance at four year colleges and \$1,000 per year for full-time attendance at two year colleges to students who meet specified academic (minimum grade point average and SAT score) and residence requirements. The scholarship can be earned after the student's freshman year in college for a student attending a four-year institution who did not meet the SAT requirement if the student earns a 3.0 grade point average on a 4.0 scale after one year in college. The student will lose the scholarship if he or she does not maintain a 3.0 grade point average, but the scholarship may be reinstated after one year if the student's grade point average improves to a cumulative 3.0. Students must also pass thirty credit hours each year to maintain the scholarship. By the year 2000, students graduating from high school must comply with the curriculum requirements of the \*STAR diploma (\*college preparation or technical preparation track as prescribed by the State Board of Education) to be eligible for the LIFE scholarship.

## BILLS INTRODUCED

### AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

#### H.4530 ENVIRONMENTAL AUDIT PRIVILEGE Rep. Sheheen

An environmental audit is a voluntary, internal evaluation of a facility or activity of a facility regulated under environmental law, which is designed to identify and prevent environmental compliance violations. Audit reports are protected from discovery and from being admissible as evidence in a legal action unless the privilege is waived, or an administrative law judge or a court in a criminal proceeding determines that revoking the privilege is justified by law. This bill allows an administrative judge or a court in a criminal proceeding to revoke the privilege if the audit report shows a violation of an existing permit provision or if the audit report is required under the permit provisions as a condition of the issuance and continued operation.

The bill allows a judge in a criminal proceeding to revoke the privilege if the court determines that the audit report or other associated materials show evidence of wilful noncompliance with, reckless disregard of, or grossly negligent disregard of applicable environmental laws.

State law provides limited immunity for persons making voluntary disclosure of an environmental compliance violation. This bill states that if a person or entity has been found guilty of a permit violation or has been prosecuted for an environmental violation, the disclosure is not voluntary.



**H.4504 HUNTING MIGRATORY WATERFOWL ON THE SALUDA LAKE Rep. Rice**

This bill makes it a misdemeanor to hunt migratory waterfowl on lake Saluda in Greenville and Pickens Counties within two hundred yards of a dwelling unless written permission is given by the owner and occupant of the dwelling. Violators are subject to fines of up to two hundred dollars or imprisonment for up to thirty days.

**EDUCATION AND PUBLIC WORKS**

**H.4500 WILLIAMSBURG TECHNICAL COLLEGE Rep. Boan**

This bill codifies a previously uncoded act establishing the Williamsburg Technical, Vocational and Adult Education Center Commission, its composition, powers and responsibilities. The bill also changes the name of the governing bodies and updates other provisions relating to various other South Carolina technical colleges so as to reflect the revised names of the institutions administered by these boards.

**H.4505 LOAD LENGTH ON CERTAIN POLE TRAILERS OR POLE CARRIERS Rep. Gamble**

This bill includes flat-bed trailers within those vehicles which are exempt from limitations of vehicle length and load when transporting poles. The bill also adds iron and steel articles as materials which may be transported by these exempt vehicles.

**H.4506 DEALER AND WHOLESALE LICENSE PLATES Rep. Meacham**

This bill adds language to the *SC Code of Laws*, providing that a *recreational vehicle dealer* and a *motor home dealer* may be issued *one dealer license plate for the first five vehicles sold during the preceding year*. Current law provides that "a dealer may be issued two plates for the first twenty vehicles sold during the preceding year and one additional plate for each fifteen vehicles sold beyond the initial twenty during the preceding year." These recreational vehicle and motor home dealer plates would be subject to current statutory restrictions on use of dealer and wholesaler plates; specifically, that the plates may be used exclusively on motor vehicles owned by, assigned, or loaned for test driving purposes to the dealer when operated on the highways of this State by the dealer, its corporate officers, its employees, or a prospective purchaser of the motor vehicle.

**H.4524 HANDICAPPED LICENSE PLATES Rep. Fleming**

This bill provides for the issuance of special license plates, for a biennial fee of thirty dollars, to persons who show proof that they meet the definition of "handicapped" under Section 56-3-1950 of the *SC Code of Laws*.

**H.4528 TEACHER/ADMINISTRATOR CERTIFICATION SERVICES Rep. Kennedy**

This bill requires that the State Department of Education perform teacher and administrator certification services without charge, and specifies what these certification services include.

**H.4529 WAITING LINES AT DEPARTMENT OF PUBLIC SAFETY Rep. Harvin**

This bill provides that a person who waits in line at the Department of Public Safety for more than ten minutes to receive a driver's license to which he is entitled must be issued the license without charge.

**H.4534 EXEMPTIONS FROM CHILD PASSENGER RESTRAINT SYSTEMS Rep. Klauber**

This bill removes taxi drivers from specified persons and vehicles which are exempt from statutory requirements for child passenger restraint.

**H.4544 NOTICE OF DRIVER'S LICENSE SUSPENSION Rep. D. Smith**

This bill revises the method of notice required to be served upon a person whose driver's license has been suspended. The bill removes the current requirement that the notice be mailed "return receipt requested."

**H.4552 OPERATION OF ALL TERRAIN VEHICLES Rep. Townsend**

This bill provides that it is unlawful for a person under thirteen years of age to operate an all terrain vehicle (ATV), and provides that a person thirteen years of age or over who does not possess a driver's license may operate an ATV after successfully completing an ATV written test and road test administered by the Department of Public Safety.

**JUDICIARY**

**H.4498 LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS Rep. Cromer**

This bill concerns the rights of a law enforcement officer who is under investigation that could lead to disciplinary action. The officer must be notified of the nature of the investigation before being interviewed. At the conclusion of the investigation, the person in charge of the investigation must inform the officer in writing of the investigative findings and any recommendation for disciplinary action. When a law enforcement officer is subjected to questioning that could lead to disciplinary action, the questioning must be conducted at a reasonable hour and all questions must be asked by a single investigator. The officer is entitled to a hearing on the issues by a hearing officer or board before the imposition of any disciplinary action.

A law enforcement officer who is brought before a disciplinary hearing board must be provided access to all records pertinent to the case that contain exculpatory information and which are intended to support any disciplinary action. The prosecutor's burden of persuasion is by clear and convincing evidence as to each charge involving false representation, fraud, dishonesty, deceit, or criminal behavior and by a preponderance of the evidence as to all other charges.

If the law enforcement officer is found not guilty of the disciplinary violations, the matter is concluded and no disciplinary action may be taken. If the law enforcement officer is found guilty, the hearing officer or board must make a written recommendation of a penalty. The sentencing authority may not impose a penalty greater than the penalty recommended by the hearing officer or board. An officer may appeal from a final decision of a law enforcement agency to the circuit court.

**H.4508 LICENSING UNDER THE ADMINISTRATIVE PROCEDURES ACT Rep. Davenport**

This bill concerns licensing under the Administrative Procedures Act. Several professionals and occupations are required to be licensed before they may operate in the state. This bill states that a licensee must be afforded a reasonable opportunity to show compliance before a state



agency attempts to suspend or revoke a license. A prevailing party may recover attorney's fees against a state licensing board which summarily suspends a license without affording the licensee a reasonable opportunity to show compliance. The bill also states that a licensing board must have a good faith belief that a person is in violation of law before it orders the person immediately to cease and desist from engaging in the conduct. A board member or the Director of the Department of Labor, Licensing, and Regulation or another employee of the department may be held liable for damages resulting from a bad faith, negligent, reckless, or otherwise wrongful temporary restraining order or other equitable remedy.

**H.4513 TRANSACTION SUBJECT TO MANUFACTURED  
TENANCY HOME PARK ACT Rep. Carnell**

This bill states that the circuit courts and magistrate courts will exercise concurrent jurisdiction with respect to any claim arising from a transaction under the South Carolina Home Park Tenancy Act. The bill also provides for the designation of agents for service of process for out-of-state landlords. The landlord may designate an agent upon whom service of process may be made; if no designation is made, process may be served upon the Secretary of State.

**H.4525 POSSESSION OR PURCHASE OF CIGARETTES BY MINORS Rep. Fleming**

This bill states that it is unlawful for a person under 18 years of age to purchase or knowingly possess cigarettes. Possession is prima facie evidence that it was knowingly possessed. A person violating this section must have his driver's license suspended.

**H.4533 SKATEBOARDS, IN-LINE SKATES, & BICYCLES Rep. Townsend**

Under the provisions of this bill, the owner of real property or a tenant is granted immunity from liability for ordinary negligence resulting in the injury to the operator of a skateboard, in-line skates, or a bicycle which occurs on the owner's or tenant's private or public property.

**H.4547 ALCOHOL AND BEVERAGE CONTROL ACT LICENSES Rep. Felder**

This bill states that licenses and permits for the sale of beer and wine may only be issued to the person who is the true owner of the business seeking the permit or license. Persons must be of good moral character (meaning no conviction of a felony, or a misdemeanor that has a possible sentence of five or more years) to hold a license for the sale of beer and wine. The Department of Revenue may not issue a license to an individual under 21 years of age.

**S.332 CONFISCATED WEAPONS Sen. Hayes**

A person convicted of a crime must have any weapon used in the commission of the crime confiscated. Current law gives the law enforcement agency which receives the weapon the option to transfer it to the county clerk of court or to the mayor, who sells the weapon to the highest bidder at a public auction and deposits the proceeds in the general fund of the county or the city treasury.

This bill repeals the code section which provides for the sale of the weapon by the mayor or the clerk of court. A law enforcement agency that receives the confiscated weapon may use it, destroy it, transfer it to another law enforcement agency, or trade it with a retail dealer

licensed to sell pistols in this State for a pistol or other equipment approved by the agency. The bill also states that a weapon must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined.

**S.772 WITNESS ATTENDANCE IN COURT Sen. Holland**

Current law provides that a magistrate may compel the attendance of a witness who resides not more than 20 miles from the magistrate's location. This bill allows a magistrate to compel the attendance of any witness residing in the county. The bill also allows a magistrate to impose a sentence of imprisonment up to thirty days if a witness fails to attend or refuses to give evidence without good cause shown.

**S.779 TRIAL OF PERSONS CHARGED WITH MUNICIPAL ORDINANCES Sen. Holland**

This bill concerns the trial of persons charged with violations of municipal law and ordinances. State law currently requires the trial to be held within seven days of arrest. This bill deletes the requirement that the trial be held within seven days.

**S.866 PENALTY FOR CARJACKING Sen. Holland**

This bill adds carjacking to the list of violent crimes and to the list of most serious offenses in the criminal code. Currently a person convicted of carjacking may be imprisoned for up to 15 years, or, if great bodily injury results, for up to 25 years. This bill increases those maximum penalties by 5 years.

**LABOR, COMMERCE AND INDUSTRY**

**H.4503 "ASSISTIVE TECHNOLOGY WARRANTY ACT" Rep. Felder**

This bill provides for the manner in which assistive technology devices (wheelchairs, prosthetics, hearing aids, voice synthesizers, braille printers, etc.) shall be marketed, repaired maintained, and replaced, if required. The bill provides that a manufacturer who, directly or indirectly, sells an assistive technology device must furnish the consumer with a written warranty that is at least one year in duration, and which, at minimum, guarantees that there are no defects in parts or performance. In the absence of an express written warranty, the assistive technology device shall be considered to have been expressly warranted by the manufacturer just as if the manufacturer had explicitly furnished the warranty as specified in the legislation.

**H.4507 CONTRACTORS RETURNING TO WORK IN SOUTH CAROLINA Rep. Davenport**

This bill provides that a licensed contractor who leaves the state with unpaid debts and subsequently returns to the state to become licensed again or to do business under an unexpired S.C. license, must file with the State Licensing Board for Contractors a signed, notarized statement listing all outstanding debts incurred from doing business in this state as well as all bankruptcies from any time and place.

**H.4510 BUYER'S PREMIUMS AT AUCTIONS Rep. Davenport**

This bill pertains to auctions which make use of a buyer's premium, i.e. a surcharge added to the bid price of an item and paid by the buyer at an auction. The bill provides that when a buyer's premium is used at an auction, the auctioneer is required to display placards of specified



dimensions informing the bidders of the percentage of the surcharge that will be used. An individual who fails to provide such notification is guilty of a misdemeanor and is subject to a fine of not more than five hundred dollars or imprisonment for not more than thirty days.

**S.864 VICE-CHAIRMAN OF PUBLIC SERVICE COMMISSION Sen. Holland**

This bill provides that the Public Service Commission shall elect one of its members as a vice-chairman rather than a secretary.

**H.4543 MAXIMUM AMOUNTS OF BANK LOANS Rep. Gamble**

This bill brings the state law which sets the maximum amounts of bank loans into conformity with federal law by setting the maximum amounts as percentages of the bank's "unimpaired capital." "Unimpaired capital" is defined.

**H.4546 ATHLETIC COMMISSIONS Rep. Knotts**

This bill brings laws pertaining to the State Athletic Commission and the licensure and regulation of combative sports into conformity with the uniform statutory organizational framework established for professional and occupational boards and commissions. The bill also re-establishes county athletic commission boards within each of the state's judicial circuits. The five members of each board are appointed by the legislative delegation representing the judicial circuit.

**MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

**H.4502 CERTIFICATE OF NEED PROCESS Rep. Kelly**

Health care facilities must apply for a Certificate of Need from the Department of Health and Environmental Control (DHEC) before constructing a new facility or modifying an existing facility and before any expenditure or acquisition is made on behalf of a health care facility in excess of amounts prescribed by DHEC regulations. This bill requires that a health care facility obtain a Certificate of Need before establishing an outpatient methadone treatment facility. Methadone facilities provide treatment for persons chemically dependant or addicted to heroin or other morphine-like drugs.

**H.4523 CERTIFICATE OF NEED PROCESS Rep. Fleming**

This bill amends the statutory definition of a health care facility to exclude kidney disease treatment centers, free-standing hemodialysis and renal dialysis centers, and dialysis machines from the Certificate of Need process.

**H.4512 ATTORNEYS AT THE DEPARTMENT OF SOCIAL SERVICES Rep. Davenport**

This bill gives the Director of the State Department of Social Services (DSS) the authority to hire and fire all attorneys working with the department including attorneys working with the state office, a regional office, or any county DSS office. The bill places all attorneys employed by the DSS under the direct control and supervision of the general counsel for DSS.

**H.4541 UNIFORM ANATOMICAL GIFT ACT Rep. Walker**

This bill amends the Uniform Anatomical Gift Act, which provides for organ donations made for transplantation purposes. The bill defines an organ procurement organization as the agency or

organization designated by the Health Care Financing Administration as the organ procurement agency for the State. The bill states that if an organ donor does not name a specific donee, the organ must be donated to the state organ procurement organization.

The bill allows the organ procurement organization to enter into reciprocal agreements to share organs with qualified organ procurement organizations in other states. The proposed agreement must be approved by the United Network for Organ Sharing or its successor.

Unless otherwise provided for by a reciprocal agreement, the organ procurement organization may transfer an organ to an out-of-state recipient for transplantation once if a suitable recipient in South Carolina cannot be found in a reasonable amount of time.

**H.4542 PROCEDURES FOR ORGAN DONATION Rep. Walker**

This bill deletes, revises, and rewrites several provisions relating to organ donations. The Commission on Organ, Tissue, and Eye Donation is created to ensure that hospitals comply with federal and state laws concerning notification of the Donor Referral Network of potential organ, tissue, and eye donors.

The bill amends the manner in which a body or body parts may be donated by adding a provision which waives family consent to a donation if sufficient documentation such as a driver's license, living will, power of attorney, or other document has been executed by the donor. A provision is added that requires law enforcement officers, coroners, and emergency personnel responding to the scene of an accident or trauma to take reasonable steps to ensure that any evidence acknowledging that a person is a donor accompany that person to the hospital.

**WAYS AND MEANS**

**H.4499 ELIGIBILITY FOR IN-STATE TUITION RATES Rep. Boan**

This bill provides that persons residing in North Carolina and Georgia counties contiguous to South Carolina, are eligible for in-state tuition when enrolling in a technical or two-year college located in a county with a common boundary with one of these states, if public colleges in the county in which the person resides have reciprocal in-state tuition agreements with the South Carolina technical or two-year college at which the person seeks to enroll.

This bill also allows an independent nonresident person who has full-time employment in South Carolina to be considered eligible for in-state rates while employed on a full-time basis in South Carolina. Also, the bill allows independent nonresident persons who are foreign nationals employed by companies which have assigned them to full-time employment in operations managed by the company in South Carolina, and their dependents, to be eligible for in-state tuition rates while they are employed with the company on a full-time basis in South Carolina.

**H.4501 OPTIONAL RETIREMENT FOR HIGHER EDUCATION FACULTY Rep. Boan**

This bill allows eligible faculty and administration of technical colleges to participate in the optional retirement program currently provided for faculty and administration of publicly-supported four-year and post-graduate institutions of higher learning.



**H.4509 EMERGENCY MEDICAL CARE Rep. Davenport**

This bill prohibits the disbursement of state funds, including state Medicaid funds, to any hospital or health care facility providing emergency medical service if the hospital or health care facility refuses to provide treatment to a person who is in need of medical care for an emergency medical condition.

**H.4511 CRITERIA FOR PALMETTO FELLOWS SCHOLARSHIP AWARDS Rep. Davenport**

This bill provides that class standing or rank shall not be a criteria in awarding Palmetto Fellows Scholarships.

**H.4522 BINGO GAMES Rep. Bowers**

This bill allows radio and television stations located in South Carolina to apply for a promoter's license and contract with licensed nonprofit organizations to conduct and broadcast bingo games, in accordance with provisions of the Bingo Tax Act of 1996. The bill provides that these radio and television stations that do not obtain a promoter's license may contract with licensed promoters to conduct and broadcast games in accordance with provisions of the Bingo Tax Act. Also, the bill allows radio and television stations, when contracting with a licensed nonprofit organization or a licensed promoter, to generate additional revenue for the station by purchasing bingo cards and supplies and distributing them free, or for a price, to business entities who purchase advertising time from the station.

**H.4526 ADMISSIONS TAX Rep. Kelley**

This bill provides that the admissions license tax does not apply to any amount of the charge for admission that is a fee or tax imposed by a political subdivision of the State.

**H.4527 SCHOOL BOND REFERENDUMS Rep. Mack**

This bill provides that proceeds of capital improvement bonds issued for school building or renovation which identify a specific project or projects in the issue placed on the ballot must be used solely for that project or projects. Any school district which fails to comply with this provision will forfeit its annual Education Finance Act allocation until it does comply.

**H.4531 DELINQUENT TAX SALES Rep. Vaughn**

This bill requires that the successful bidder at a delinquent property tax sale shall pay, on the day of the sale, the amount of unpaid property taxes, assessments, penalties, costs, and taxes levied for the year in which the redemption period (a statutory time period during which a defaulted mortgage, land contract, deed of trust, etc. can be redeemed) begins. The bill provides that the balance of the bid amount is due when the redemption period expires and before execution and delivery of the tax title (as provided under current law). Current law provides that the full amount of the bid must be paid on the day of the sale. The bill also allows the defaulting taxpayer to pay interest only on the amount actually remitted by the successful bidder on the date of the sale. Current law requires that the defaulting taxpayer must pay interest on the whole amount of the delinquent tax sale bid. The bill further requires that, in the event of redemption of the real estate to the defaulting taxpayer, the purchaser is to be refunded the payment he was required to make. Current law requires that the purchaser must be refunded the purchase price plus eight percent. The bill also requires that the successful bidder is required to pay the balance of the delinquent tax bid amount before he may receive the tax deed.

**H.4545 VIDEO POKER REFERENDUM Rep. Knotts**

This joint resolution provides for a nonbinding referendum at the time of the 1998 general election to determine the wishes of the voters of South Carolina as to whether video poker payouts should be allowed to continue subject to strict regulation and heavy taxation.

**H.4548 UNEMPLOYMENT COMPENSATION FUND Rep. Haskins**

This bill adds a section to the *SC Code of Laws* providing for the applicable contribution rates with respect to the computation of the statewide reserve ratio for employer contributions to the State Unemployment Compensation Fund for the period January 1, 1998 through December 31, 1998.

**H.4549 STATE VETERANS' NURSING HOME FACILITY Rep. Allison**

This bill directs the SC Department of Mental Health to develop and submit to the General Assembly by January 1, 1999, a proposal for the construction of a state veterans' nursing home. The proposal must include the resources needed to purchase and acquire land for the site, the number of beds, the site location, the cost of construction, furnishing, and operating the facility, and possible sources of funds.

**H.4553 BUSINESS LICENSE TAX Rep. McLeod**

This bill allows a county or municipality to impose by ordinance a fee in lieu of a business license tax on the gross income of a business operating within the county or municipality.

**H.4554 VIDEO GAMES WITH A FREE PLAY FEATURE Rep. Meacham**

This bill adds a section to the *SC Code of Laws*, providing that a municipality, by ordinance, may prohibit the location within the municipality of certain video games with a free play feature. The bill also provides for enforcement of such a prohibition.

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The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page ([www.lpitr.state.sc.us](http://www.lpitr.state.sc.us)) and click on the "Quick Find Guide." On the next screen, click on "Legislative Updates." This will list all of the *Legislative Updates* by date. Click on the date you need.

SPECIAL NOTE: A cumulative index to the weekly issues of the *Legislative Update* has been added to the *Legislative Update* page on the Worldwide Web. Bills are listed in numerical order in this index. Each bill number is followed by a list of hypertext links (in chronological order) to every reference to that bill in any issue of the *Legislative Update* during the current session, 1997-98. This is an easy way (just click on the links) to find summaries of bills introduced into the House and to follow the progress of a bill through House committees and on the floors of the House and Senate.